

willing or required to spend, they could not possibly provide real-time captioning for all locally originated programming.

Second, the cost of real-time captioning is a very substantial economic burden. As discussed below, even the costs of providing ENR captioning will not be insignificant for small market stations. But a requirement that all "live" programming be captioned in real-time would be unduly burdensome to the industry, particularly at a time when broadcasters will be required to absorb millions of dollars of costs associated with the transition to digital broadcasting. Indeed, CBS believes that the considerable burden of a captioning mandate can and should be reduced by exempting certain categories of programming from any captioning requirement, such as locally-originated sports programming.

We now discuss in detail the reasons why local broadcasters must have the discretion to choose captioning methods under a mandatory regime.<sup>29</sup>

A. In The Near Term, There Is Grossly Insufficient Captioning Capacity For Stations Generally To Be Able To Real-Time Caption Their Locally-Originated Programming.

Lack of captioning capacity represents a serious obstacle to providing real-time captioning, and would make it virtually impossible for many stations now to meet any requirement that they use this method to caption their locally-originated programming. At present, the majority of locally-originated programming is not captioned at all, let alone in real-time. There are literally

---

<sup>29</sup> While maintaining discretion to choose the method by which programs will be captioned is most critical with respect to locally-originated programming, it is also important that the broadcast networks retain this flexibility. We note, however, that CBS currently anticipates maintaining the same level of captioning services it now provides for network programming that is presently captioned, despite its expectation that, under a captioning mandate, some outside funding may evaporate and the costs of captioning services may increase.

thousands of hours of locally originated programming that are broadcast annually by the more than eleven hundred commercial television stations for which real-time captioning services would have to be found if a requirement to provide this service were imposed. Moreover, local broadcasters would not be alone in the scramble to find real-time captioning if the service were mandated. There is a broad array of program producers that now caption little of their programming. By the Commission's reckoning, "[o]nly about 4 percent of basic cable and 35 percent of premium cable programming is captioned."<sup>30</sup> To the extent they produce their own programming, alternative program providers, such as direct-to-home satellite services, do virtually no captioning now. If these producers, as well as national and local broadcasters, were required to caption their "live" programming with real-time captioning, they would all be competing for limited captioning services, and demand for real-time captioning services would increase exponentially.

Unfortunately, the captioning service that is in shortest supply is stenocaptioning. There are simply an insufficient number of agencies and individuals that can provide high quality real-time captioning. If all live broadcast and cable programming presented nationally were required to be real-time captioned, there would be more demand than current caption providers could handle. There is nowhere near the capacity necessary to handle real-time captioning for the locally-originated programming of the more than eleven hundred local commercial television stations. Consequently, it would be impossible for stations to meet a requirement to real-time caption their local programming now, and a requirement to do so would be counterproductive to the goal of extending the availability of high quality captioning.

---

<sup>30</sup> Notice at ¶13.

This is the view of the VITAC captioning agency, the largest of the for-profit captioning agencies, which believes that the Commission "must be very careful to [implement the mandates of the Telecommunications Act] in a manner that best utilizes the present limited supply of real-time captioners and potential real-time captioners."<sup>31</sup> VITAC believes that "continued emphasis should be placed on providing high-quality real-time captioning to the greatest number of viewers, and that is best achieved through the networks and national cable providers."<sup>32</sup> And while VITAC would like to see real-time captioning extended to the largest 20 to 30 television markets, it believes that not every station even in those markets should be expected immediately to provide real-time captioning: "The shortage of skilled real-time captioners probably makes that impossible."<sup>33</sup> Thus, it is clear that were real-time captioning mandates imposed, many broadcasters -- particularly many local stations -- would be unable to find real-time services and would be unable to meet the requirement.

The reason that real-time captioning services are in such short supply is that there are insufficient numbers of people with the skills and training to do high quality real-time captioning. Those with experience in providing real-time captioning find that a very small percentage of court reporters have the skills to provide broadcast quality stenocaptioning.<sup>34</sup> As a consequence, the pool

---

<sup>31</sup> Letter of Martin H. Block, Vice President of Educational Products and Services and Chairman of the Board, VITAC, at 2, dated March 8, 1996 ("VITAC Letter") (on file at CBS).

<sup>32</sup> Id.

<sup>33</sup> Id.

<sup>34</sup> VITAC estimates that the percentage of court reporters who can effectively create broadcast quality stenocaptions is very small. William Oliver, Real-Time Education Specialist, Caption America, Inc. (now called VITAC), has stated:

We find that one in 50 court reporters can become captioners, and then they need  
(continued...)

of qualified stenocaptioners is limited. The most recent survey of the National Court Reporters Association ("NCRA") lists only 83 captioners among its members, and VITAC estimates that currently there are approximately 100 real-time captioners nationally, including those who may not belong to NCRA.<sup>35</sup>

The lack of qualified stenocaptioners is not a problem that will easily or quickly be solved. First, there is an overall lack of programs to train reporters in stenocaptioning. VITAC itself has developed two training programs, one under a grant from the Department of Education, aimed at increasing the number of real-time captioners. NCRA has also conducted real-time training seminars. Yet VITAC's assessment is that these efforts represent only a first, short step toward addressing the shortage of real-time captioners.<sup>36</sup> In addition, training qualified captioners is time consuming. VITAC reports that it can take up to six months to train a registered professional court reporter to stenocaption news at network quality standards. VITAC trainees are paid a salary, and are permitted to begin captioning broadcasts only once they have consistently exhibited the ability to produce high quality captions. Not surprisingly, given the cost of such a program, "[t]his

---

<sup>34</sup>(...continued)

three months of training. Because someone is a great court reporter doesn't mean he/she will be a good captioner. For example, you need patience, clean notes, consistency in writing, and after many hours of work it must come natural, and you cannot be afraid of being on the air.

Remarks delivered at The National Conference for the Closed-Captioning of Local News, sponsored by the U.S. Department of Education and held November 22, 1991, at p. 175.

<sup>35</sup> VITAC Letter at 1.

<sup>36</sup> See *id.* at 1: "These programs have, collectively, reached a sizable number of court reporters over the past several years. While these programs have been helpful in motivating reporters and starting them on the path towards quality real-time translation, attendees still have a long way to go before they can achieve what VITAC and the networks would consider acceptable real-time captioning."

type of training program is not an available option to providers of local news and sports captioning services."<sup>37</sup> In sum, the present supply of stenocaptioners simply could not meet the demand for all real-time captioning at the national level should it be mandated, let alone for local real-time captioning.

CBS's experience reflects the difficulty many stations would face if forced to caption their news in real-time. As described above, CBS has had to turn to distant captioning agencies to find real-time captioning for many of its stations, because of the lack of such services in numerous areas of the country.<sup>38</sup> CBS's stations in Baltimore, Miami and San Francisco all caption local news programming through an audio link with a Colorado captioning agency. As noted, the quality of captions is necessarily lowered where the captioner merely transcribes an audio feed, without being able to see video, as the captioner could if he were situated in the same vicinity as the station. With CBS's assistance, its station in New York has found a Van Nuys captioning agency that can avoid the problems associated with audio-only captioning by establishing a video telephone link as well as the audio link. But, as noted, this arrangement entails significant extra long distance telephone costs. The fact that CBS stations have opted for long distance captioning -- whether for audio link alone or for audio and video links -- despite the significant drawbacks involved demonstrates the scarcity problems they and other stations face. Locally-based captioning is clearly preferable, but it is simply not available in many places -- including such major markets as Baltimore, Miami, New York and San Francisco.<sup>39</sup>

---

<sup>37</sup> Id. at 1.

<sup>38</sup> See pages 19-20, supra.

<sup>39</sup> Historically, virtually all program producers and providers have turned outside their own operations to obtain captioning services, rather than incurring the capital and staffing cost in-  
(continued...)

In sum, regardless of the issues of cost, a requirement that all live local broadcasts be captioned in real-time would be impossible to implement currently. Even if such implementation were possible, however, the costs of real-time captioning are beyond what local broadcasters should be required to assume on a mandatory basis.

B. The Costs Of Real-Time Captioning Are More Than Many Stations Can Reasonably Be Expected To Bear, Particularly At A Time When They Must Absorb The Huge Costs Associated With The Conversion To Digital Broadcasting.

Real-time captioning, notwithstanding its value to deaf and hearing-impaired audiences, is very expensive. While CBS, through concerted efforts and outside funding assistance, has made great progress in providing real-time captioning on the local level, it is abundantly clear that a general requirement to provide this service would be extremely burdensome. As noted, it costs \$350 to \$900 per hour to stenocaption network television programming. Even the lower quality real-time captioning used for local programming costs \$175 to \$300 per hour.<sup>40</sup> For many stations, paying these rates to caption all of their live local programming would constitute a significant hardship.<sup>41</sup>

---

<sup>39</sup>(...continued)  
house. Some stations have tried to hire an individual to real-time caption local news, and have not found it possible to locate qualified personnel. Even if they were to find a qualified person to add to their staff, stations still face the major challenge of securing consistent closed captioning back-up and coverage for emergencies, illness or technical problems. There also would be a substantial waste of funds were a stenocaptioner put on staff in order to secure stenocaptioning services for the sporadic hours of news programming spread across each day of the week.

<sup>40</sup> Network real-time captioning is more expensive for a number of reasons, including the use of satellite feeds, higher standards for acceptable error rates, and the need for backup capability and refeed capacity.

<sup>41</sup> One of the difficulties stations face is that for the present they would need to pay rates closer to those of the networks to lure qualified court reporters into captioning. VITAC  
(continued...)

To illustrate what mandates for real-time captioning would mean for local stations on a practical basis, we have examined what the costs would be for one of the CBS Owned television stations, WJZ-TV, Baltimore, if it were to stenocaption all its locally-originated programming. Assuming a relatively conservative cost of \$200 per hour for real-time captioning, the annual cost of captioning all 22½ hours<sup>42</sup> of regularly-scheduled local news at WJZ would be \$234,000. The station also broadcasts a half hour public affairs program weekly, which would cost an additional \$5200 per year to caption in real-time. The cost of real-time captioning for the approximately 35 Baltimore Orioles games the station broadcasts annually would bring captioning costs to about \$260,000 per year. And this figure does not include additional costs for captioning news specials and emergency programming.<sup>43</sup> Thus, WJZ-TV broadcast approximately 16 hours of emergency programming on the January 1996 blizzard alone. News specials can also account for significant numbers of hours of programming. WJZ broadcast 10 hours of local coverage of the recent Papal visit to the Northeast. Captioning of this emergency and special news programming would further add to a station's annual captioning costs.

As this example illustrates, the costs of real-time captioning local programming would be significant even for a major station group owner such as CBS. These costs would be even

---

<sup>41</sup>(...continued)  
reports that it is from court reporting companies, which pay substantial compensation to skilled reporters, that local captioning services now would have to recruit real-time captioners. But "[m]ost individuals would not be willing to surrender their high level of compensation to undertake local news captioning, where the compensation is comparatively low." VITAC Letter at 1.

<sup>42</sup> This number of hours of local news is fairly typical of CBS Owned stations, whose local news programming totals range from about 12 to 30 hours per week.

<sup>43</sup> We note that, although Commission rules already require that stations transmit emergency information visually as well as aurally, they do not require verbatim captioning. Rather, stations may use any method which legibly conveys the "essential" emergency information, including slides, crawls, and hand printed signs. See 47 C.F.R. §73.1250(h).

more burdensome for small market stations. Notwithstanding CBS's partial success in locating sponsors for some of its stations' local news programming, it should be evident that most broadcasters could not be confident of securing substantial outside funding support to caption the thousands of hours of live locally-originated programming broadcast annually. It would be unreasonable to expect all or most stations to find sponsors,<sup>44</sup> and any requirement imposing the task of funding real-time captioning on stations themselves would clearly be economically burdensome in the extreme, particularly at a time when stations must absorb the high cost of conversion to digital technology.

It is abundantly clear that the conversion to digital will be extremely costly. Before the conversion is complete, stations will have to finance equipment modifications and replacements for cameras, electronic newsgathering equipment, signal distribution and switching equipment, transmitters, and antennas. Much of this overhaul will have to occur in the early years simply for signal "pass through" purposes. Stations will have to undertake this effort even though few broadcast engineers are trained in the digital environment, and few engineering or construction companies can claim expertise in building a digital broadcast system. Program production for the new compressed format will require new technologies to handle signal splicing, editing, format

---

<sup>44</sup> Indeed, CBS fears that one effect of captioning mandates may be to cause the Congress sharply to cut back on federal support for captioning services. In our view, such a reduction would be an entirely unjustified abdication of government responsibility, with the effect of placing the entire burden of providing what is essentially a public good on the television industry. Nonetheless, given current budgetary pressures, it would be unrealistic not to anticipate the possibility of such cutbacks. And as VITAC observes in its comments, "if the federal funding were to disappear overnight, a severe burden would be placed on the television industry, one it would not be instantly prepared to carry." Comments of VITAC, in MM Docket No. 95-176, dated February 29, 1996, at 13.



conversion, archiving, and retrieval.<sup>45</sup> It is not surprising, therefore, that the capital costs of the transition to digital have been estimated as running from nine to 20 million dollars per station (and where new towers and other infrastructure are needed, substantially more).<sup>46</sup>

CBS submits that the substantial costs of a real-time captioning requirement should not be imposed on broadcasters, particularly at a time when they must pay for digital conversion. As discussed below, CBS believes many broadcasters -- given time and opportunity to do so -- will attempt to implement real-time captioning for at least some of their local news broadcasts. We respectfully suggest, however, that they should not be compelled to do so.

We also submit that overall captioning costs on stations should be eased by creation of an exemption for local sports programming. Many stations -- particularly independents -- broadcast substantial schedules of sports events. Since there is no alternative to real-time captioning of such live programming, an obligation to caption these events would represent a significant expense. An exemption for local sports is also appropriate because captioning is less critical to make the programming accessible, particularly with the prevalence of graphics now used in sports broadcasts.

---

<sup>45</sup> See "Comark Gets Grant for ATV Transmitter," Broadcasting & Cable (September 25, 1995).

<sup>46</sup> The Commission inquires in the Notice (§17) what effect the implementation of digital technology may have on the provision of closed captioning. At present it is not possible to predict whether the advent of digital technology will have a facilitating or inhibitory effect on the provision of closed captioning, nor whether captioning will be a more or less expensive process when done digitally. Although the process of captioning will be thoroughly different in the digital environment, it is evident that many of the same cost and capacity challenges will exist. For example, the practical problems of locating and affording real-time captioning services will remain. It will therefore remain essential that broadcasters retain the flexibility to choose captioning methodologies that are economically and operationally feasible.

In sum, given the severe shortage of real-time captioning services and the high cost of those services where they do exist, CBS believes stations must be given the flexibility to use ENR captioning if required to caption their local news broadcasts. Real-time captioning is simply too expensive and services offering it too scarce for the average station to be able to provide it. Local sports programming, which requires real-time captioning, should be exempted from any captioning mandate.

V. Whatever Captioning Requirements It Imposes As to Locally-Originated Programming, The Commission Should Allow Long Enough Deadlines So That Stations Have Sufficient Time To Come Into Compliance And Can Attempt To Implement Real-Time Captioning If They Have The Opportunity To Achieve It.

The Telecommunications Act of 1996 requires that the Commission's regulations "include an appropriate schedule of deadlines for the provision of closed captioning of video programming."<sup>47</sup> Whatever requirements are placed on stations, CBS believes that implementation will take time for many stations, and consequently a significant amount of time should be left for stations to come into compliance.

As discussed above, real-time captioning capacity is in particularly short supply and would be stretched well beyond current capacity if it were universally mandated. For some types of programming -- such as live public affairs discussion programs and emergency programming -- there is no alternative method to real-time captioning. If the Commission required captioning of these types of programming, compliance would necessarily take considerable time.

Moreover, even if broadcasters are given discretion to choose the ENR method to caption their news broadcasts -- as we believe they must be -- it will be a considerable task for

---

<sup>47</sup> Section 713(c).

many stations to implement any captioning of their locally-originated programming. For stations that do not yet caption, even the cost of introducing ENR captioning would be significant. A conservative estimate of the cost of the equipment needed to provide ENR captioning is \$10,000 to \$15,000. Additional annual expenses would result from technical and labor costs, which will vary depending on the amount of programming involved and on the staffing available to monitor the captions. Those stations -- mostly in smaller markets -- without electronic newsrooms will face the additional and far greater costs of computerizing their newsrooms, as well as purchasing captioning equipment and providing for staffing. These stations clearly will need considerable time to comply with any local captioning mandate.

But there is another important reason for affording broadcasters ample time to comply with a captioning requirement for local programming: it will encourage stations to explore the possibilities of real-time captioning, and may facilitate better long-term solutions to the problem of providing high quality captioning for local news. In the face of an immediate captioning mandate, there is little doubt that most stations would adopt ENR captioning for all their news and, to the extent possible, for their public affairs programming. At present, the substantial majority of stations that caption some or all of their local news programming do so through ENR captioning. Thus, many stations already have the equipment to provide captioning by this method. Other stations -- those that have computerized newsrooms -- will certainly conclude that installing ENR captioning would be the easiest way of satisfying a captioning mandate. Having once made the quick and easy choice of ENR captioning, many stations may not consider other options.

A longer deadline would permit stations, if they desire to do so, to concentrate their efforts and resources on obtaining real-time captioning services and funding for the programming they believe their deaf and hearing-impaired audiences most desire to be captioned. This approach

would give stations a greater incentive to begin or continue seeking outside sponsors to fund real-time captioning. Success in obtaining commitments of sponsor funding, in turn, would foster the further development of captioning services, now in such short supply.

If stations are not forced to implement ENR captioning as an immediate solution to a captioning requirement, there is good reason to believe many stations will make significant, voluntary efforts to implement real-time captioning. This likelihood is, first of all, reflected by the fact that a majority of the CBS Owned television stations presently provide real-time captioning for some or all of their local news broadcasts, on an entirely voluntary basis. Further, the Commission in its Notice seeks comment on whether market incentives can play a role in promoting closed captioning.<sup>48</sup> It is CBS's view that market forces, if not sidetracked by an immediate mandate driving stations to ENR captioning, will encourage further, voluntary progress in providing real-time captioning. As Congress stated in its findings enacted as part of the Television Decoder Circuitry Act in 1990 ("Decoder Act"):

the availability of decoder-equipped television sets will significantly increase the audience that can be served by closed-captioned television, and such increased market will be an incentive to the television medium to provide more captioned programming.<sup>49</sup>

As acknowledged in the Notice (¶22), decoder-equipped sets are rapidly reaching the market. A mere "two years after the TDCA's requirements became effective, there are reportedly about 30 million decoder-equipped television receivers that have been purchased in this country, with another 1.5 million sold every month."

---

<sup>48</sup> Notice at ¶¶ 22-23.

<sup>49</sup> Section 2(9) of Pub.L. 101-431, 104 Stat. 960 (codified at 47 U.S.C. §303 note).

The increasing prevalence of decoder-equipped sets will provide incentives to expand closed captioning, as Congress intended. CBS's increase in captioning of network broadcasts to nearly 100 percent of its programming has coincided with the period of the enactment and implementation of the Decoder Act. The captioning of commercials has significantly increased in the past two years; advertisers now caption approximately two-thirds of the commercials broadcast on network television.<sup>50</sup> Advertisers are already playing a greater role in funding closed captioning, and as they incrementally determine there is value in captioning their commercials over the next few years, there is reason to believe they may be increasingly prepared to contribute a portion of the funds needed for the real-time captioning of programs in which they advertise. However, as noted above, an immediate captioning mandate as to locally-originated programming is likely to compel stations simply to adopt ENR captioning, rather than engage in the time

---

<sup>50</sup> To the extent the Commission determines that advertisements must be captioned, CBS believes advertisers, as the producers, should bear responsibility for captioning. CBS also believes that promotional announcements should be exempted from captioning requirements. Every network airs hundreds of promotions a week, many of which are created shortly before air. For example, promotions for the LATE SHOW WITH DAVID LETTERMAN are created between the time the program is taped in late afternoon and the time it is broadcast that same night. Local stations, as well, run many promotional announcements. Unlike commercials, which run repeatedly, promotions have a short life and are not reusable at a later date.

Requiring the captioning of promotions would be very expensive, and would not achieve a significant public benefit. The CBS Television Network, for example, would have to purchase costly equipment it does not have and incur substantial labor costs. If CBS had to caption promotions, it would have to develop an in-house captioning capability that it does not now possess. Once it paid to create this capability, the network would have still to pay for personnel to ensure that captions were added to promotions at the numerous, irregular times they run. Encoding the captions onto promotions would cut down on some of the labor cost of ensuring captions are transmitted with promotions, but would entail other, very substantial expenditures. Encoding captions would require the network to develop in-house encoding capabilities -- which it does not have on the East Coast -- and to pay staff for encoding. Even if CBS obtained the equipment and staff to encode captions, there is simply not enough time to encode many promotions -- such as those for the LATE SHOW -- and the network would necessarily incur the labor costs of personnel, whose job would be to ensure that unencoded captions were transmitted with the promotions.

consuming search for sponsorship which might ultimately allow them to provide real-time captions for at least some of their local news broadcasts.

Leaving a significant amount of time before captioning requirements take effect is consistent with the captioning industry's own assessment of what is necessary to expand the provision of high quality real-time captioning on the local level. While viewing comprehensive real-time captioning of all local news and sports as the ultimate goal -- an end that CBS does not believe is realistic -- VITAC recognizes that:

[T]he process must be evolutionary and must be correlated to the availability of skilled real-time reporters who desire to enter the captioning side of their industry. To do otherwise would result in a plethora of very poor captioning, that will serve no purpose but to lose the confidence of audience and waste valuable resources.<sup>51</sup>

VITAC estimates that evolution needed to significantly increase local provision of real-time captioning and avoid "a plethora" of poor quality captioning may take as long as a decade.<sup>52</sup>

In sum, CBS believes that deferring the deadline for implementing captioning mandates for local programming is necessary for stations to be able to come into compliance with captioning requirements -- even if those requirements allow ENR captioning -- and will likely increase opportunities to provide real-time captioning, particularly for key local news programs that the stations identify as most important to deaf and hard of hearing viewers.

---

<sup>51</sup> VITAC Letter at 2.

<sup>52</sup> "The best hope for the future seems to reside in recent educational mandates approved by the NCRA Board of Directors. These changes in educational policy will lead to higher quality court reporting education, with schools teaching reporting theories that are real-time capable and reporters receiving the broader type of education that is required of a real-time captioner. The process will be an evolutionary one, and the time when we will see real-time reporters and captioners emerging from court reporting programs at our nation's universities and colleges on a large scale may well be as much as a decade away." VITAC Letter at 2.

VI. The Commission Should Exempt Non-Network Program Exhibition From Any Requirement To Caption Previously Produced Programming.

The Telecommunications Act requires the Commission to adopt regulations to "maximize" the captioning of video programming first exhibited before the effective date of these regulations, except to the extent it would be economically burdensome to provide such captioning.<sup>53</sup> CBS has voluntarily tried to increase the pool of captioned programming by encoding captions onto much of its programming and by requiring captioning services to create an archive library of captions for programming whose captions are not encoded in it. As a practical matter, CBS captions virtually all its network programming, and any previously exhibited programming will be captioned if it is rebroadcast on the CBS Television Network, regardless of whether it was originally captioned or not.

Although a requirement to caption previously exhibited programming that is nationally exhibited may be feasible, it would be simply too burdensome to require stations to caption previously exhibited programming that they rebroadcast locally. There are literally thousands of hours of theatrical movies, network re-runs and other previously exhibited programming without captions that stations rebroadcast. It would be highly unreasonable to require a station to caption, for example, episodes of the HONEYMOONERS that it was rebroadcasting. Nor would it be fair retroactively to require the owners of such vintage programming to assume the costs of captioning as the price for further exploitation of their video libraries. Indeed, requiring captioning of previously exhibited programs for local rebroadcast could inhibit efforts to distribute such programming, a result contrary to Congressional intent. As the House Report stated, "[i]n general, the Committee does not intend that the requirement for captioning should result in

---

<sup>53</sup> Section 713(b)(2).

previously produced programming not being aired due to the costs of the captions."<sup>54</sup> Local rebroadcast of previously exhibited programming should be exempted from any captioning requirement.

VII. For Numerous Compelling Reasons, Any Regulatory Requirements To Provide Video Description Now Would Be Entirely Unworkable.

The Telecommunications Act directs the Commission to initiate an inquiry in order to provide to Congress an assessment of the appropriate methods and schedules for phasing video description into the market and a definition of programming for which video descriptions should apply.<sup>55</sup> In the Notice (¶¶ 2,15-16), the Commission has already requested information about the current availability, cost and uses of video description.

CBS views video description as a public service with the potential to make certain types of programming more accessible to blind and visually-impaired audiences. CBS has committed itself to conducting an on-air test of video description within the next two years in conjunction with WGBH Educational Foundation/National Center for Accessible Media (NCAM), and to further exploration of the opportunities and requirements of this service.

At present, however, a number of factors severely limit the availability and feasibility of video description. First, the costs of providing video description are prohibitive. Television networks would have to make extensive equipment modifications in order to transmit video description. These costs are estimated to be in the millions of dollars per commercial network. In addition, each station must be equipped to broadcast in stereo with the Second Audio

---

<sup>54</sup> See H.R.Rep. No. 204, 104th Cong., 1st Sess. 114.

<sup>55</sup> Section 713(f).



Program (SAP) channel in order to transmit video descriptions. Current estimates of the costs of outfitting a single station to pass the SAP channel range from \$500,000 to one million dollars.

Most stations are not currently equipped to provide this service. At present, we believe only about 10 percent of stations broadcast through the SAP channel; the percentage is slightly higher, perhaps 20 percent, for CBS affiliates.<sup>56</sup> Thus most stations would have to incur this substantial cost in order to transmit video descriptions.

In addition to these network and station equipment and plant modification costs, the costs of creating the video descriptions themselves and integrating them into programming would be prohibitive. Composing descriptions that are accurate and fit properly into the time-frame of the program's action requires as much as 15 to 20 hours for a one-hour program.<sup>57</sup> Six years ago, labor costs alone were estimated to range from \$1,500 to \$3,000 for one hour of programming.<sup>58</sup> Today, the total cost of providing one hour of programming with video description averages \$4,000.<sup>59</sup> Given the absence of any appreciable bank of described programming, any mandate requiring broadcast of such a service would impose an impossible financial burden on broadcasters.

---

<sup>56</sup> A 1990 report estimated that only 10.3 percent of network affiliates broadcast through the SAP channel. See Commercial Viability of Description Video Services, Cosmos Corporation, May 1990 (Prepared under Contract No. HS89021001 for the U.S. Department of Education, Office of Special Education Programs), at vi.

<sup>57</sup> Id. at v.

<sup>58</sup> Id.

<sup>59</sup> An additional obstacle to providing video description which does not pertain to captioning is the fact that the former involves program interpretation. Delays and costs are added by the need to obtain approval from the creator of the program, who must be satisfied that the video descriptions represent a fair interpretation of each sequence in the action and is consistent with the overall tone of the program.

Second, even if networks made the necessary modifications to their plants and paid for video descriptions, and if local stations obtained the necessary equipment to transmit them, a large percentage of viewers could not now obtain any benefit from video description services. Only television sets with stereo receivers can receive video descriptions. The number of such sets is still relatively small. Even in 1995, stereo television sets represented less than one-third of the sets sold.

Third, even if broadcasters had the technical capability to use the SAP channel and a majority of viewers had televisions capable of receiving video descriptions, there are competing uses of the SAP channel that may offer other public services for which there is greater demand. For example, broadcasters with stereo capability would effectively be forced to choose between using their SAP channel to provide a second language translation of their programming and broadcasting video descriptions.<sup>60</sup> In many localities, there is greater demand for Spanish language service than for described video.

We note that the transition to digital broadcasting promises to afford new opportunities for video description -- in particular, the possibility of overcoming this channel capacity limitation. The existence of multiple audio channels in a digital environment should alleviate the need for commercial stations to choose between second language and video description uses, and permit them to provide both services. The superior opportunities for video description which will exist after the conversion to digital transmission, however, provide an additional financial basis for refraining from imposing video description requirements now. There

---

<sup>60</sup> While, as the Notice states (§15), many noncommercial stations transmit video description via the SAP channel, they benefit from being able to repeat a program several times during the course of a week, and to broadcast second language translations and video description on the SAP channel at different times. Commercial stations do not have this flexibility. Even in the public television environment, stations often choose to broadcast Spanish translations rather than English-language video descriptions because of greater demand.

is no reason to force broadcasters to incur the great costs of developing video description capability today -- when such capacity can be put to relatively little use -- only to put them to the cost of a second conversion once they are operating digitally.

Fourth, video description is particularly suited to certain kinds of programs, such as dramas, but not to fast-paced comedies (including those with so-called "sight gags") and many other types of network programming. Thus, for some programming, video description may not be at all useful or may be better provided in an alternative format. For example, radio sports coverage is an obvious and superior alternative to described video of televised sports coverage.

Finally, as the Notice mentions (§19), there are fewer companies providing video description than closed captioning. In fact, current capacity to supply video description is limited to a few organizations and radio reading services.

The combination of the prohibitive costs of equipping networks and stations with the capability to provide video description services, the equally prohibitive costs of providing the service itself, the current lack of capacity of many viewers to receive the service, the lack of available service providers, the competing uses of the SAP channel, and the limited suitability of the service for certain types of programming all indicate that identifying the appropriate methods of making video programming more accessible to people with visual disabilities will require further study and experimentation. Imposing mandatory requirements is simply not feasible for video description. Congress clearly acknowledged this fact by refraining from directing the Commission

to promulgate regulations with respect to video programming, although doing so with respect to closed captioning.<sup>61</sup>

### Conclusion

Through dedicated efforts over a period of years, CBS has become a leader in the provision of closed captioning in network and local programming. Based on our experience, we believe that achieving the goal of the Telecommunications Act of making programming as fully accessible to the hearing impaired community as possible -- consistent with economic realities -- will require that broadcasters be given great flexibility in implementing any captioning requirements the Commission imposes. All broadcasters -- and particularly television stations with respect to their locally-originated programming -- must be granted broad discretion in choosing the method by which they will meet any captioning requirements placed on them. Specifically, stations must be allowed to use ENR captioning to caption their local news. They should also be exempted from any requirement to caption local sports programming. Furthermore, the schedule adopted for the implementation of caption requirements should allow sufficient time for stations to come into compliance and to increase their opportunities to find the means to implement higher quality, real-time captioning.

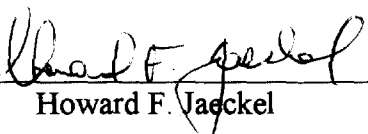
---

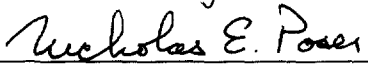
<sup>61</sup> In fact, while the initial House version of the Telecommunications Act provided that the Commission "may adopt regulations it deems necessary to promote the accessibility of video programming to persons with visual impairments," following completion of its inquiry, H.R. 1555, 104th Cong., 2d Sess. §204(f), the bill as enacted deleted any reference to Commission rulemaking with respect to video description. See Joint Explanatory Statement of the Committee of Conference, §305, at 67.

Far greater obstacles stand in the way of expanding the provision of video description, which is, for the present, prohibitively expensive and practically and technically unworkable. Voluntary exploration of the feasibility of this service and opportunities opened by the transition to digital broadcasting will best foster advances in this area.

Respectfully submitted,

CBS Inc.

By   
Howard F. Jaekel

By   
Nicholas E. Poser

51 West 52nd Street  
New York, New York 10019

March 15, 1996

Its Attorneys